

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**DISCOUNT TRUCK PARTS &
TIRES, LLC.**

Plaintiff,

VS.

**METROPOLITAN PROPERTY AND
CASUALTY INSURANCE COMPANY,**

Defendant.

CIVIL ACTION NO.

4:19-cv-3848

(JURY)

**DEFENDANT METROPOLITAN PROPERTY AND CASUALTY COMPANY
OF TEXAS' NOTICE OF REMOVAL AND DEMAND FOR JURY TRIAL**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant Metropolitan Property and Casualty Insurance Company (“Metropolitan”) files this Notice of Removal of Cause Number 2019-58952, styled *Discount Truck Parts & Tires, LLC v. Metropolitan Property and Casualty Insurance Company*, currently pending in the 295th District Court, Harris County, Texas. Metropolitan removes the case to the U.S. District Court for the Southern District of Texas, Houston Division. As grounds for removal, Metropolitan states as follows:

I.

OVERVIEW

1.1 This case involves a dispute over insurance benefits under a Business Owners policy of insurance issued by Metropolitan to Plaintiff Discount Truck Parts & Tires, LLC, for alleged damage to the Plaintiff's property located at 10901 Wallisville Road, Houston, TX 77013, allegedly caused by Hurricane Harvey, which occurred on or about August 25, 2017 (*See* Plaintiff's Original Petition). Plaintiff commenced this action, styled *Discount Truck Parts &*

Tires, LLC v. Metropolitan Property and Casualty Insurance Company, against Metropolitan by filing Plaintiff's Original Petition on August 22, 2019, under Cause Number 2019-58952 in the 295th District Court, Harris County, Texas. According to the Plaintiff's Original Petition in that suit, the Plaintiff seeks to recover damages from the Defendant of less than \$100,000.00. Metropolitan was served the Plaintiff's Original Petition in that suit on September 4, 2019. Therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b). A true and correct copy of all process, pleadings, and the orders served upon Metropolitan in the state court action are being filed with this Notice as required by 28 U.S.C. § 1446(a), and are attached hereto as Exhibit "A".

II.

DIVERSITY JURISDICTION

2.1 The District Courts of the United States have original jurisdiction over this action based on complete diversity of citizenship between the parties as contemplated by 28 U.S.C. § 1332(a). The Plaintiff is now, and was at the time the lawsuit was filed, a domestic limited liability company and owns real property in Harris County, Texas. (*See Plaintiff's Original Petition.*) Defendant Metropolitan is now, and was at the time the action was commenced, a Rhode Island Corporation with a principal place of business in Warwick, Rhode Island. Accordingly, Metropolitan is a citizen of the State of Rhode Island, and complete diversity exists.

III.

REMOVAL PROPER

3.1 This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332(a)(1) as an action wholly between citizens of different states with the matter in controversy exceeding the sum or value of \$75,000.00, exclusive of interest and costs.

3.2 Under 28 U.S.C. § 1441(a), the removed action is proper in this Court as the district and division embracing the place where the state court action is pending.

3.3 Defendant Metropolitan, the removing party, will promptly give the parties written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d). Metropolitan will promptly file a copy of this Notice of Removal with the clerk of the 295th District Court, Harris County, Texas, where the action is currently pending, also pursuant to 28 U.S.C. § 1446(d).

IV.

EXHIBITS ACCOMPANYING REMOVAL

4.1 In conjunction with filing this Notice of Removal, Defendant Metropolitan files the following documents as exhibits:

Exhibit “A” – Index/Documents filed in the 295th District Court, Harris County, Texas

WHEREFORE, PREMISES CONSIDERED, Defendant Metropolitan Property and Casualty Insurance Company, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, removes Cause Number 2019-58952, styled, *Discount Truck Parts & Tires, LLC v. Metropolitan Property and Casualty Company*, from the 295th District Court, Harris County, Texas to this Court on the 4th day of October, for trial and determination.

Respectfully submitted,

STACY | CONDER | ALLEN LLP

/s/ Dennis D. Conder

By: Dennis D. Conder
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**ATTORNEYS FOR DEFENDANT
METROPOLITAN PROPERTY
AND CASUALTY INSURANCE COMPANY**

CERTIFICATE OF SERVICE

On the 4th day of October, 2019, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Southern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served counsel of record electronically and/or by facsimile and/or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2) and by the Texas Rules of Civil Procedure.

/s/ - Dennis D. Conder

Dennis D. Conder

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